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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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CLARIANT CORPORATION
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EXAMINER

RODRIGUEZ, PAUL L

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/883,647

Applicant(s)

SHERRILL ET AL.

Examiner

Paul L. Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-21,24-27 and 29-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-21,24-27 and 29-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/04, 6/01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The examiner of record has changed from Examiner Elliot Frank to Examiner Paul Rodriguez.

2. The remarks submitted 12/21/04 have been received and considered. Claims 1-6, 8-21, 24-27, 29-31 are presented for examination as presented to the office on 5/4/04.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.83(a) because the features disclosed in the description and claims should be illustrated in the drawings in a form of graphical drawing symbol or a labeled representation. Element numbers drawn to empty boxes does not provide adequate labeling for figures 1, 2 and 4.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 900. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claims 2-4, 6, 10, 13, 17, 24, 25 and 27 are objected to because of the following informalities:

Claim 2 lines 3-4 recites "...comprising a at least one..." would be better as "...comprising at least one..."

Claim 3 line 4, the claim ends with "...preparation chemicals, preparation processes." Would be better as "...and preparation processes".

Claim 4 line 3 refers to "a product", claim 1 also recites "a product", unclear if this is referring to the same or a separate and distinct product.

Claim 6 line 4, the claim ends with "...ECS, posting the ECS at a website.", would be better as "...ECS and posting..."

Claim 10 lines 3-4, the claim ends with "...preparation chemicals, preparation processes." Would be better as "...and preparation processes".

Claim 11 line 3 refers to "a product", claim 1 also recites "a product", unclear if this is referring to the same or a separate and distinct product.

Claim 13 line 2 recites "the product vendor", previously recited "at least one product vendor". Reference to the same limitation should remain consistent to avoid any possible confusion or antecedent problems.

Claim 17 line 3 states "...a color from a at least one", better as "...from at least..."

Claim 24 line 4, the claim ends with "...preparation chemicals, preparation processes." Would be better as "...and preparation processes".

Claim 25 line 3 refers to "a product", claim 1 also recites "a product", unclear if this is referring to the same or a separate and distinct product.

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Claim 27 line 2 recites "the product vendor", previously recited "at least one product vendor".

Claim 31 line 2 states "one method s", unclear of applicants intentions.

Appropriate correction is required.

6. The examiner has provided a number of examples of the claim deficiencies in the above, however, the list of deficiencies may not be all inclusive. Applicant should refer to these as examples of deficiencies and should make all the necessary corrections to eliminate the claim objections.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 8, 11, 12, 14, 16, 20, 21, 30 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claim 3 recites the limitation "the at least one component" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 8 recites the limitation "the at least one product vendor" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

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10. Claim 11 recites the limitation "the color" in line 3. There is insufficient antecedent basis for this limitation in the claim. Previously "color management", "an engineered color standard" and "a product's color quality", but no reference to a color.

11. Claim 14 recites the limitation "wherein controlling the product's color" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. Previously "controlling a product's color quality".

12. Claim 20 recites the limitation "wherein analyzing the color shade" in line 1. There is insufficient antecedent basis for this limitation in the claim. Previously "analyzing the color of".

13. Claim 21 recites the limitation "wherein communicating the ECS to the product vendor" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. Previously "communicating the ECS to the at least one requestor".

14. Claim 30 recites the limitation "the color" in line 4. There is insufficient antecedent basis for this limitation in the claim. Previously "color management" and "choosing an engineered color standard" but no previous color.

15. Claim 31 recites the limitation "wherein controlling the product's color" in line 1. There is insufficient antecedent basis for this limitation in the claim. Previously "controlling a product's color quality".

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16. Due to the number of 35 USC § 112 second paragraph rejections, the examiner has provided a number of examples of the claim deficiencies in the above rejection(s), however, the list of rejections may not be all inclusive. Applicant should refer to these rejections as examples of deficiencies and should make all the necessary corrections to eliminate the 35 USC § 112 second paragraph problems and place the claims in a proper format.

17. Due to the vagueness and a lack of a clear definition of the terminology and phrases used in the specification and claims, the claims have been treated on their merits as best understood by the examiner.

Claim Rejections - 35 USC § 102

18. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

19. Claims 17-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Lawn et al (U.S. Pat 6,842,654, based upon provisional filing of 60/238,176). The claimed invention reads on Lawn et al as follows:

Lawn et al discloses (claim 17), a method for color management comprising the steps of receiving a product having a color from at least one requestor (col. 2 lines 55-58, col. 2 line 62 – col. 3 line 8), analyzing the color of the product to obtain an engineered color standard (ECS) (col. 3 lines 9-15), the ECS comprising reflectance data (col. 1 lines 22-40, col. 2 lines 1-17, col.

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3 lines 36-64) and communicating the ECS to the at least one requestor (col. 3 lines 15-17), (claim 18) wherein the at least one requestor is selected from the group consisting of retailers and designers (col. 2 lines 55-58) and the at least one requestor not being selected from the group of cut and sew shops, fabric mills and dye houses (col. 2 line 55-58 recites “can be...”, so therefore a dyehouse may or may not be present), (claim 19) wherein the ECS further comprises at least one component selected from the group consisting of dyestuff, dyeing procedures, finishes, finishing procedures, preparation chemicals and preparation processes (col. 1 lines 34-40, col. 2 lines 27-32), (claim 20) wherein analyzing the color shade comprises the step of using computer aided color matching techniques (col. 3 lines 3-8, also applicant pointed out by own admission on page 7 line 19-23, and page 8 line 22 – page 9 line 6 that this is well known), (claim 21) wherein communicating the ECS to the product vendor further comprises at least one method selected from the group consisting of: physically sending the ECS, electronically sending the ECS, posting the ECS at a website (col. 3 line 26 – col. 4 line 35, figures 1, 2). Examiner would like to point out that any reference to specific figures, columns and lines should not be considered limiting in any way, the entire reference is considered to provide disclosure relating to the claimed invention.

20. Claims 1-6, 17-21, 24-27 and 30-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Chan (U.S. Pat 6,342,952). The claimed invention reads on Chan as follows:

Chan discloses (claim 1) a method for color management (col. 1 lines 45 – col. 2 line 17) by a retailer (col. 6 lines 42-45), comprising the steps of choosing an engineered color standard (ECS), wherein the ECS includes at least reflectance data (col. 4 lines 12-58, col. 6 lines 33-41), communicating the ECS to a product vendor (col. 2 line 58 – col. 3 line 18), having a product

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produced using the ECS (ink, col. 3 lines 29-37, 55-60), and controlling a product's color quality by generating reflectance data for the product and comparing the reflectance data of the ECS to the reflectance data of the product (col. 3 lines 29-37, col. 5 lines 32-49, col. 6 lines 23-32), (claim 2, differing from claim 1) the ECS comprising at least one component wherein the at least one component is selected from the group consisting of reflectance data and a dye specification (col. 6 lines 33-41), wherein the product includes at least one product component selected from the group consisting of reflectance data and a dye specification (col. 6 lines 23-41), (claim 17) a method for color management (col. 1 lines 45 – col. 2 line 17) comprising the steps of receiving a product having a color from at least one requestor (col. 4 lines 12-58), analyzing the color of the product to obtain an engineered color standard (ECS) (col. 3 line 30 – col. 4 line 3), the ECS comprising reflectance data (col. 6 lines 23-41), and communicating the ECS to the at least one requestor (col. 3 lines 31-37), (claim 3, 19, 24) wherein the at least one component of the ECS further comprises a component selected from the group consisting of dyestuff, dye specification, dyeing procedures, finishes, finishing procedures, preparation chemicals, preparation processes (col. 8 line 26-56), (claim 4, 25) wherein choosing an engineered color standard further comprises, designing a product having a color, communicating the color to a provider of engineered color standards and analyzing the color to obtain the ECS (col. 5 lines 24-30), (claim 5, 20, 26) wherein analyzing the color further comprises the step of using computer aided color matching techniques (col. 2 lines 3-17, col. 5 lines 31-49), (claim 6, 21, 27) wherein communicating the ECS to the product vendor further comprises at least one method selected from the group consisting of: physically sending the ECS, electronically sending the ECS, posting the ECS at a website (col. 2 line 58 – col. 3 line 18) and (claim 18) wherein the at least one requestor is selected from the group consisting of retailers and designers (col. 4 lines 12-28),

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and the at least one requestor not being selected from the group of cut and sew shops, fabric mills and dye houses (either customer or printer), Examiner would like to point out that any reference to specific figures, columns and lines should not be considered limiting in any way, the entire reference is considered to provide disclosure relating to the claimed invention.

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

22. Claims 8-16 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan (U.S. Pat 6,342,952).

Chan teaches most all of the instant invention as applied to claims 1-6, 17-21, 24-27 and 30-31 above and also teaches (claim 14) wherein controlling the products color by comparing the ECS to the produced product further comprise at least one method selected from the group

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consisting of visually inspecting, visually Inspecting under a single light source, visually inspecting under multiple light sources and electronically inspecting (col. 3 lines 29-37).

Chan fails to teach (claim 8, 15, 29) wherein the at least one product vendor is at least one textile vendor selected from the group consisting of, a cut and sew shop, a fabric mill and a dye house and that the ECS comprising dyestuff formula.

Examiner considers the ink producers to broadly read on a dye house and col. 1 lines 54-64, the formula and formulation of an ink to broadly read on a dyestuff formula.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include an ink manufacturer as the claimed dye house and the ink formula as a dyestuff formula in the color management system of Chen because Chen teaches a system that can provide a quality product from anywhere in the world and for printing uniform colors (col. 1 line 5 – col. 2 line 17) and it is the examiners position that the process and system taught by Chen would be obvious to include garments because applicant also included applications directed to color matching of paper and inks.

Response to Arguments

23. Applicant's arguments with respect to claims 1-6, 8-21, 24-27 and 29-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Granger (U.S. Pat 6,058,357) – teaches a color management and reflectance measurement system in communication with a host computer.

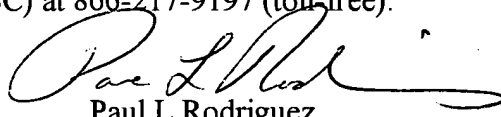
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Cook et al (U.S. Pat 5,798,943) – teaches a color management system that accurately matches colors using reflectance and includes communications to a host computer.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul L. Rodriguez whose telephone number is (571) 272-3753. The examiner can normally be reached on 6:00 - 4:30 T-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo P. Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Paul L Rodriguez
Primary Examiner
Art Unit 2125

PLR
5/3/05